

CHRONOLOGY

VIPONT MINE
BOX ELDER COUNTY, UTAH
D/003/007

(Updated November 30, 1990)

June 30, 1977

Letter from Thomas F. Miller, Mine Operator. He received the Division letter of 6/14/77 (not in our files) and mine permitting materials. On June 29, Division personnel visited Mr. Miller and informed him of his operation being in violation of the new mining law and steps he needed to take to remedy the situation. His project will disturb less than 2 acres of surface area. Form MR-4 was not enclosed, please send this form.

July 6, 1977

Memo to file ACT/007/005, regarding site visit of 6/26/77. Extensive pre-law waste rock dumps exist along with mill foundations and tailings. Proposed operation will concentrate silver ore from existing tailings, waste rock dumps and further mining. Mr. Miller was informed of being in violation of Utah law and instructed to file as soon as possible and submit a letter of explanation for failure to comply with the Utah Mined Land Reclamation Act.

July 7, 1977

Letter to Mr. Miller. Division has reviewed 6/30/77 letter and does not agree that the operation will disturb less than 2 acres. Redisturbance of the tailings, widening the road and disturbance of the existing mines is considered part of the total acreage. Division expects a complete plan to be submitted before 8/1/77.

July 20, 1977

Minutes of 7/20/77 Board meeting. Mr. Miller requested an exemption under the Act on the basis that he was not mining a deposit, but re-mining old tailings which was effectively reclaiming the area by removal of the tailings. Mr. Miller was most concerned with posting a bond. It was suggested he submit a contract or personal agreement stating that the mined area would be properly reclaimed in lieu of the bond. The Board decided that Mr. Miller would follow the regular procedures set forth under the Act by filing a Notice of Intent (NOI) and Reclamation Plan for the Vipont Mine. The Board also agreed to allow Mr. Miller to sign an agreement or contract describing the work already performed and that which would be performed to properly reclaim the area. At such time as he contemplates full

mining operations on adjacent areas, it would be necessary that he follow the required procedure including the posting of a bond. Mr. Miller indicated he would comply with the Board's stipulations.

September 29, 1977

Forms MR-1, Notice of Intention to Commence Mining and MR-2, Mining and Reclamation Plan with a cover letter were received. Underground development of a 2000' cross-cut to commence in October 1977. Old tailings are being reprocessed by hauling them from Birch Creek and placing them on a four compartment asphalt pad, where they are leached using a closed circuit cyanide process. Two 100,000 gallon typar lined ponds are used to contain the liquids. The operation is located on private lands.

October 7, 1977

Letter to Mr. Miller notifying him of a planned field inspection on 10/26/77. Division requests a scaled map of the mining property showing locations of tailings to be reworked, future tailings ponds, existing and future spoils, mine portals, structures, roads, asphalt pads, streams and springs.

October 14, 1977

Letter from Coe and VanLoo, Consulting Engineers, to the Division requesting NOI information.

November 3, 1977

Memo to file, ACT/003/005, regarding site visit of 10/26/77. Division suggests additional drainage on the underground operation access road. Mr. Miller was asked to submit a map of the operations. The planned tailings pile location, immediately below the operation could cause the entrance of leachates into Birch Creek. The proposed waste rock piles will block a drainage above the operation. Determination to be made on these concerns following the submission of a map by the operator. Water samples were taken from the plastic pipe immediately below the leach operation, the Vipont portal drainage and Birch Creek. The tailings material was sampled for soil analysis.

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| November 7, 1977 | Division letter with copy of request by Coe and VanLoo asking Mr. Miller to identify sections of the plan he wishes to be kept confidential by 11/22/77. No response from him will imply that no confidential information is contained in the plan and the entire plan will be forwarded to the interested party. |
| December 1, 1977 | Memo to file, ACT/003/005, regarding field inspection of 11/30/77. Operation was inactive with no evidence of recent work. Stream section where tailings are deposited was inspected. The stream channel rests on, and is composed of tailings material. The stream meanders are stable at present, but will probably change as tailings are removed. Suggest Vipont leave an undisturbed buffer zone surrounding the stream. |
| December 12, 1977 | Received Vipont mine tailings lab analysis. Sodium adsorption ratio = 16. Probable problems with salt and sodium toxicity and water infiltration. |
| January 1, 1978 | Received lab analysis of three water samples taken at Vipont site 10/27/77. |
| July 2, 1978 | Letter to Mr. Miller reminding him of the 7/20/77 Board stipulations and informing him that since he is operating without final approval and the required reclamation contract and bond, he is in violation of the Act. Before Division approval can be granted, a map of the surface facilities and narrative concerning final reclamation details must be submitted. The possible Diversion of Birch Creek during tailings removal would require a Stream Channel Alteration Permit from the State Engineer. |
| July 12, 1978 | Memo to file, ACT/003/005, regarding site inspection of 7/5/78 including a brief chronology. Mr. Miller's employee, Art Melugin, was present at the site. The disposal area for the reworked tailings was identified as the area immediately |

below the heap leach pads and contained by an existing , although presently breached dike. Development of an underground entry in Pipe Spring Gulch, near the Phelan Tunnel was aborted. The portal is open and waste rock is deposited in the ephemeral channel. A second entry has been constructed about 50 yards down canyon. This entry is 451 feet long with water flowing out. This water was sampled for analysis. A map is still needed and reclamation items need to be clarified. Mr. Miller will be contacted.

August 25, 1978

Received lab analysis of soil samples logged in 8/11/78.

October 19, 1978

Registered letter to Mr. Miller regarding the unfulfilled request made in the letter of 7/12/78, for a map of the operations and a narrative concerning reclamation and mining procedures. Division feels the operation is in violation of the Act since commitments made on 7/20/77 to the Board have not been fulfilled. Failure to provide the information requested by 11/9/78 will result in the matter being referred to the Board. The Mining and Reclamation Plan submitted is not complete and has not been approved. The construction of two underground entries and blocking the stream channel with mine spoils are violations of the Act.

November 6, 1978

Received scaled map of the operation (to be kept confidential) and cover letter. Reworked tailings will be placed in old dam area and reseeded where practical. The new mine dump is located approximately 100 yards north of Little Pipe Spring Gulch and will be reseeded when stabilized. There is no drainage from the heap leach. However, Pipe Spring Creek is channeled around the south end of the leach pad. The channel is sized to hold 2000 inches of water. The slope on the mine dumps will be approximately 30° on the face and level on the top.

November 8, 1978

Letter for Mr. Miller from the Attorney General's Office. The information received 11/6/78 is insufficient. A visit to the

Division office is recommended. Field inspections reveal operations beyond those authorized by the Board and without an approved Mining and Reclamation Plan. Failure to provide the required information by 11/20/78 will result in the matter being brought before the Board at their meeting on 11/29/78, with a recommendation that the matter be referred to the Office of the Attorney General to restrain you from any further actions and also referred to the County Attorney's Office for criminal prosecution for knowingly refusing to provide required information.

November 8, 1978

Memo to Ron Daniels from Mike Thompson. Brief chronology of events is given. The additional information provided by Mr. Miller on 11/6/78 is not felt to require confidential treatment under the Act. Ron would like to involve the Bureau of Water Quality and the Division of Wildlife Resources in the review of this mine. A copy of the Attorney General's Office letter is enclosed. Commitments made by Vipont are summarized along with details of what Vipont should commit to, in order to bring the plan into compliance and eligible for approval. Recommendations and possible courses of action are given.

November 14, 1978

Memo to file, ACT/003/005, regarding phone call of 11/13/78 from Mr. Miller. Mr. Miller was upset over the last letter requesting him to meet with the Division and asked if the Division was going to pay for his expenses. He was informed that the Division could not and his reply was that he will not come to Salt Lake City.

November 16, 1978

Letter from Mr. Miller received by the Division on 11/20/78. The Division's letter of 11/8/78 is considered threatening and unbecoming. Mr. Daniels background and understanding of what is needed is sorely lacking. Mr. Thompson's visit was trespassing. Visits were agreed to be accompanied by notifying him, not some drop-in, casual thing. No discussions are to be had with his employees with he is not present. Unless Division personnel are qualified in

mine safety, as prescribed by the U.S. Bureau of Mines, they should not be allowed on the property again. Forms Mr-1 and MR-2 have been filed and additional confidential information which he believes is wrong for the Division to have. The Vipont Mine area is privately owned land. The Division's threatening letter makes a general statement that more information is needed, but does not say what. Please inform him. Calls to the Division are unreturned.

- November 22, 1978 Letter to Mr. Miller with a memorandum enclosed, stating the requirements the Division feels he should fulfill and an enclosed MR-8 Form, Commitment to Rule M-10 of the Act which needs to be completed and submitted.
- November 28, 1978 Letter from the Division of Wildlife Resources regarding the physical and biological characteristics of Birch Creek. It is a Class III stream, flowing at 2-3 cf, in fair to good conditions, with the water shed system in fair condition. Fish productivity is fair and species include Brook and Brown trout. Fingerling Brook trout have been planted. Management concerns are to maintain the fishery by protecting riparian habitat and protecting existing stream flows.
- November 29, 1978 Summary of Division of Wildlife Resources' 11/28/78 letter.
- November 29, 1978 Board hearing proceedings regarding the Vipont Mines. The Board directed that Mr. Thomas Miller be subpoenaed in for the January meeting.
- December 14, 1978 Memo to File, ACT/003/005, regarding 12/14/78 meeting with Mr. Miller at the Division. Mr. Miller stated he would send in Form MR-8 and comments to the 11/8/78 memo within a week. He was apprehensive about bonding and indicated he may wish to talk to the Board. The Board should be informed of the situation as they may wish to cancel the subpoena. Mr. Miller stated that the first adit is not abandoned as it is presently used for storage.

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| December 14, 1978 | Letter to Mr. Miller regarding meeting with the Division on 12/13/78. Suggests Mr. Miller submit the completed MR-8 Form and a narrative and commitment to each item in the 11/8/78 memo prior to the 12/20/78 Board meeting. Any variances applied for must be accompanied by an explanation. The Division will recommend to the Board that the subpoena be canceled. If no response is received before 1/15/79, the matter will again be brought to the Board's attention. |
| December 18, 1978 | Division letter identical to 12/14/78 letter. |
| December 21, 1978 | Letter from Mr. Miller with answers to the Division letter of 11/22/78 (requirements of memo 11/8/78) and a completed Mr-8 Form enclosed. The second portal has not been abandoned, but is used for storage. The face of the new dump will be reseeded and Pipe Springs Creek will be cleared. He states no problem with the State Health Department and water discharging from the portal. All steps will be taken to insure that the tailings are removed in an orderly manner and the breach in the dike (old tailings dam) will be repaired and the face reseeded. Buildings and ponds will be left as part of the post-mining land use. Chemicals would be removed prior to close down. Regrading and reseeded of the disturbed areas is on-going now. The diversion of Pipe Spring Creek around the tailings disposal site would be done if needed. The proposed final height of the tailings would be 45' to 50'. Mine life is estimated at 3 to 12 years. He states that the only disturbance, at this time, and in the future, would be the new (upper mine dump). This material is predominately hard rock and the slope angle of 33° would be very stable. Reclamation here would be minimal. If and when additional areas need to be disturbed, the reclamation procedures could be amended. |
| April 13, 1979 | Memo to Board seeking tentative approval for the Vipont mine and concurrence for the reclamation surety which is to be in two forms: (1) a bond for the underground operation |

(\$5,023.75 3/21/79 inflated 3 years); and (2) a Reclamation Contract for the tailings removal operation to be presented at a later date. An Executive Summary and Reclamation Estimate are enclosed.

April 30, 1979

Registered letter to Mr. Miller notifying him of the Board concurrence with tentative approval of the Mining and Reclamation Plan, but the Board did not concur with the proposed surety arrangement. The decision of tentative approval will be published and public comment solicited for a thirty-day period. If no factual written protests are received, and upon completion of reclamation surety, final approval will be issued. The Board is of the opinion that bonding for the underground mining and tailings removal operations is required. The Division will submit a new surety estimate to Mr. Miller in the near future. Executive Summary enclosed.

May 2, 1979

Request for publication of Notice of Tentative Approval of Vipont Mines, Ltd. sent to the Box Elder Journal and the Newspaper Agency Corporation.

[4 year void]

March 30, 1983

Memo to James Smith from Pam Grubaugh-Littig regarding the Vipont Mine Reclamation Bond. The 3/21/79 bond estimate was revised by adding a monitoring cost for three-years and a ten percent contingency factor. A ten percent future inflation factor was used to project the estimate ahead 3 years. The bond amount would be \$9,477 (1986).

March 31, 1983

Letter to Mr. Miller regarding reclamation surety for the Vipont site. The Division will require that a reclamation bond be posted for a three-year period and that the surety be reevaluated in 1986. A surety bond in the amount of \$9,477 must be posted no later than 4/31/83 so the Division can issue final approval. A bond form is enclosed.

[2 year void]

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| January 8, 1985 | Annual Operations and Progress Report form and cover letter to Mr. Miller requesting completion and submittal of same by 3/31/85. |
| March 18, 1985 | Letter to Mr. Miller regarding the Vipont mine Reclamation Surety. The Division has received no response to the 3/31/83 letter requiring a reclamation bond of \$9,477 be posted by 4/31/83. The Division requires Mr. Miller to finalize the reclamation surety with 30-days from receipt of this letter. If not done, a hearing will be held before the Board. Carrying out mining operations without final approval is illegal. |
| May 20, 1985 | Memo to file, ACT/003/005, regarding telephone conversation of 5/15/85 with Mr. Miller. He was told the \$9,477 represented a low estimate of what it would cost the state to reclaim the site, not the operator's costs. He said he would bring an automatically renewable Certificate of Deposit before noon on 5/20/85. |
| May 22, 1985 | Memo the file, ACT/003/005 regarding meeting with Mr. Miller and Clay Burgh at the Division on 5/20/85. Mr. Miller had problems with the whole idea of posting a surety on private land. He asked about the interpretation of the Act regarding a Declaration of Exemption (DOE), i.e., disturbance of two-acres over a 12-month period. He was told he should discuss it with the Attorney General's Office. He decided to take the matter up with the Board at the June hearing. He will submit a petition to the Board soon. |
| June 10, 1985 | Registered letter to Mr. Miller regarding Reclamation Surety for the Vipont mine. Since the 5/20/85 meeting, the Division has reviewed the permit status of this operation from 1977 to the present. The Division has not received the requested bonds or annual operating reports. A site inspection on 5/7/85 confirms that cyanide leach operations |

were in progress at that time. If present operations are those described in the 1979 NOI, then posting of reclamation bonds for disturbance related to these operations is an integral part of the permit process. You evidently felt an obligation to bond when you responded with a note dated 3/18/79 "Mr. L.P. Braxton: Please be advised that I will make every effort to have one year paid by May 10, 1985, signed T.F. Miller, April 12, 1985". Mr. Miller was informed that if he feels his operation is eligible for an exemption under the Act, he should complete and sign one copy of the enclosed DOE form. Upon receipt, the Division will dispatch a registered surveyor to the operation to determine areas impacted by surface mining operations to verify eligibility for the exemption. The Division will continue routine inspection of this operation.

July 3, 1985

Registered letter to Mr. Miller regarding the questionable receipt of the Division's 6/10/85 registered letter (copy enclosed). A review of the enclosed letter will substantiate the Division's interest in resolving the long-standing debate regarding the posting of a reclamation bond. Shortly after mailing this letter, you will be contacted by one of the Division's attorneys with the hope of resolving this problem.

July 8, 1985

ACT/003/005 Declaration of Exemption, received by the Division 7/15/85.

September 6, 1985

Memo to file, ACT/003/005, regarding survey of the Vipont mine site performed on 9/5/85. Areas were broken down under the categories of upper pad, middle pad, facilities and road. The total disturbed area was 6.57 acres.

September 24, 1985

Registered letter to Mr. Miller regarding the status of the DOE disturbance at the Vipont mine, ACT/003/005. The Division's recent survey of the Vipont mine gave a disturbed area of about 6.5 acres. During the survey, it was noted that the ditch around the heap leach pads is in need of repair. The south side of the pads show evidence that water

has overtopped the ditch. The ditch should either be excavated to a greater depth or a protective berm installed around the leach pads. The ditch or berm will be checked by the Division in the near future. The Division recognizes that the Vipont mine operates as a DOE. In a year, the extent of the disturbance will be surveyed to verify if the two-acre exemption is still effective.

July 22, 1986

Memo to file regarding status of the disturbance at the Vipont mine, ACT/003/005. The site was visited on 7/16/86. The extent of the disturbance is about the same, although the topography of the tailings piles below the dump area has changed. There were no signs of the ditch being excavated or a protective berm installed around the leach pad (surface water concerns of 9/24/85 Division letter). There has been no more than two-acres disturbed since the last survey in September 1985. The new 5-acre non-coal rule may apply to this operation with a disturbance over 7 acres total.

August 7, 1986

Registered letter to Mr. Miller regarding the ditch repair required at the Vipont mine. During the 7/16/86 survey of the site, Division staff observed no signs of work done to remedy the surface water concerns outlined in the Division's 9/24/85 letter (copy attached). The Division directs that the corrective action to address this problem be performed by 8/29/86.

October 31, 1986

Memo to file regarding expansion of the Vipont Mine, ACT/003/008. Division staff met with Mr. Miller at the site on 10/22/86. Mr. Miller is currently heap leaching old tailings under a DOE. He plans to start a major open pit and heap leach mine as early as next spring. The proposed operation would mine 500,000 tons of ore per year for 15 years resulting in 100 acres of disturbance. The staff reviewed the preliminary mine plans and informed Mr. Miller of the Division's permitting requirements. The ditch around the existing leach pads has been repaired.

November 4, 1986

Letter to Mr. Miller regarding the information requested in the pre-permitting meeting of 10/22/86. [File Number on letter PRO/003/008 corrected to DOE/003/007]. Enclosed were: 1) draft revisions of the State of Utah Mined Land Reclamation Act; 2) guidelines for non-coal maps; 3) guidelines for preparation of a topsoil management plan and soil survey and sampling methods. It is recommended that Mr. Miller review the Division's files to gain a better understanding of permitting requirements.

October 22, 1990

Memo to file, D/003/007, regarding site inspection of the Vipont site performed on 10/17/90. The inspection was prompted by inquiries from the Bureau of Water Pollution Control regarding the status of the mine site. Attempts were made to contact Mr. Miller via phone prior to the inspection. A message with details of the visit was left with a relative on 9/27/90. Public access to the site was restricted by a locked cable gate, approximately 3 miles from the site. Mr. Ardell Simper had leased hunting rights to the area and allowed Division staff access. No one was at the mine site during the inspection. The site showed no signs of recent activity. the entire area was in a state of disrepair and showed signs of vandalism. Photos were taken to document the site condition.

Note:

A Division response letter dated 5/10/88 was found in the files regarding a NOI for exploratory drilling, Vipont mine project, filed by Mr. Miller on 5/9/88. The NOI was found to be complete by the Division. The original NOI was not found in Division files as of 7/6/88, possibly due to a secretarial change.



State of Utah

DEPARTMENT OF NATURAL RESOURCES DIVISION OF OIL, GAS AND MINING

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October 22, 1990

TO: File

FROM: Tony Gallegos, Reclamation Engineer and *day HES*
Holland Shepherd, Reclamation Specialist

RE: Site Inspection, ViPont Mines, Ltd., ViPont Mine, D/003/007, Box Elder County, Utah

Inspection Date: October 17, 1990
Time: 2:30 - 5:00 p.m.
Attendees: Tony Gallegos and Holland Shepherd, DOGM

This inspection was prompted by inquiries from the Bureau of Water Pollution Control regarding the status of the mine site.

Several attempts had been made to contact the operator, Thomas F. Miller, via phone prior to the visit. One attempt was successful at reaching a relative on September 27, 1990 to leave a message, although it was not known when Mr. Miller would be back.

Public access to the site was restricted by a locked cable gate approximately 3 miles down stream along Birch Creek from the mine site. Mr. Ardell Simper of Oakley, Idaho had leased the hunting rights to the property and allowed us access. Another gate was located 1 mile downstream from the site, which was open and unlocked. No one else was at the mine site during our visit.

The site showed no signs of recent mine activity. Plastic from collection pond liners was blown about and the buildings showed signs of vandalism. The site was in general disarray with trash, scrap metal, plastic piping and metal drums located throughout the site. No liquids were contained in the earthen collection ponds or the three collection tanks. A collection of similar black metal barrels, believed to have originally contained cyanide (cynobrick brand name manufactured by DuPont), was located near the tanks. Several overview and detail photos were taken of the site.

Water samples were taken from Birch Creek from three locations: 1) upstream from the ViPont site, 2) immediately downstream from the ViPont site, and 3) immediately downstream from the old tailings area, which the stream runs directly through. The samples were collected to evaluate cyanide, metals and general parameters such as TDS, TSS and Ph.

Our analysis of the file history addressing this site indicates that the operator may be in gross violation of the Act. This particular file contains a long history of the operators reluctance to permit and bond the ViPont site.

Mr. Miller filed a Notice of Intent and a Mine Reclamation Plan in September of 1977, for a 3.7 acre disturbance. Later Mr. Miller made a formal request to the Division of Oil, Gas and Mining in July, 1977, asking that he be allowed an exemption from the Act. In a letter from the Division dated July 7, 1977, Mr. Miller was advised that the Vipont site would not qualify as a DOE. Later, on July 20, 1977, during a Hearing with the Board of Oil, Gas and Mining, Mr. Miller was again advised that he would be required to follow the regular procedure for filing a mine plan under the Act. This requirement included the posting of a bond. It is apparent, from this action, that the Board did not consider the mine site eligible for DOE status either.

After the Boards decision, the file indicates a long history of letters and phone calls between the operator and Division showing the operators increasing reluctance and antagonism towards the Division's requests to submit a surety and permit information. Eventually a tentative approval was given by the Board on April 26, 1979. At that time, the Board again stated that a reclamation surety would be required for both the mining and a disputed tailings removal operation. The bond amount at that time was for \$9,477. The operator never followed through with this requirement, although the file history indicated he was asked several times to do so: March 31, 1983, March 18, 1985 and June 10, 1985.

Following a letter from the Division dated June 10, 1985, indicating that the operator might qualify for a DOE, the operator filed a DOE on July 15, 1985. On September 6, 1985, Pam Grubaugh-Littig, Jim Fricke and Glen Baldwin of DOGM conducted a site visit to the ViPont mine. They surveyed the site, coming up with an estimate of 6.57 acres disturbance.

Although it is not quite clear why, from the correspondence found in the file, the Division apparently accepted the ViPont mine as a DOE, in a letter dated September 24, 1985. In this letter, the Division stated to the operator that a follow-up

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survey will be conducted the next year to see if more than two acres had been disturbed since the last survey. On July 22, 1986, another follow-up survey was performed by the Division. No further disturbance beyond the 6.7 acres was detected at that time.

Apparently, after the operator's submittal of the DOE in July of 1985, and the Division's acceptance of it, no further requests were made of the operator or action threatened by the Division. And, no further action was taken by the operator either, to stabilize or reclaim any portions of this site. The site sits today, barren, eroding, littered with debris, portals ungated, 50 gallon drums scattered about, some still containing process chemicals and posing an environmental hazard to a perennial stream and fish hatchery.

As indicated above, the file records show that there has been some confusion regarding the status of DOE for this site. However, the original Board and Division decision in 1977, did require the operator to address the requirements of the Act. Also, the total disturbance is currently over 5 acres, as indicated by the Division's September 6, 1985 memo. We recommend that the Division re-initiate the process of a large mine approval.

Because the operator was led to believe that he had a DOE, it would be unfair, at this point, to initiate a Notice of Agency Action against him. However, we do recommend that the Division take immediate steps in securing another reclamation plan and a reclamation surety from Mr. Miller. The original plan is lacking in substance, and no bond was ever filed. The operator should be contacted by certified letter and asked to meet here at the Division, to discuss permitting of the site and the environmental concerns pertinent to the operation's continued state of suspension/inactivity.

jb
cc: Wayne Hedberg
MND003007.1